IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13890 of 2005

Between:

Mr.Polineni Sivaiah, S/o.Veeraiah,
R/o.Turlapadu Village, Edlapadu Mandal, Guntur district.

..... PETITIONER

AND

1 The Assistant Commissioner, Department of Endowments, Guntur, Guntur district.
2 The Manager, Sri Chennakesava Swamy Devasthanam,
Turlapadu Village, Edlapadu Mandal, Guntur district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the recoprds and issue a writ order or direction more particularly one in the nature of writ of mandamus declare the impugned action of the respondent auction the leasehold rights of the lands of the 2nd respondent temple in the middle of the agricultural year, in an extent of Ac.4.26 cents in D.No.328/1 of Turlapadu Village, Edlapadu Mandal, Guntur district, without completing the enquiry in ProceedingsR.C.No.B1/5039/2004, dt.23-6-02 pending before the 1st respondent, under section 82 of the Andhra Pradesh Charitable and Hindu religious Endowments Act, and without following procedure prescribed under law, is illegal, arbitrary and Violative of Articles 14, 19(1)(g) and 300(A) of the Constitution of India, apart from being of Violative of Principles of Natural Justice and pass such other order or orders.

Counsel for the Petitioner:MR.VENKATA RANGADAS KANURI

Counsel for the Respondent No.: GP FOR ENDOWMENTS

The Court, at the stage of admission, made the following :

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ORAL ORDER

Heard the learned counsel for the petitioner and the learned Government pleader for Endowments.

The petitioner is aggrieved that even without determining the petitioner's claim to being a landless poor person and therefore to the benefits under Section 82(2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act,1987, the 2nd respondent is proceeding with the auction of the temple lands which will result in his dispossession even before the determination of his claim to the benefits under the Act.

The petitioner claims to be a tenant of agricultural land in an extent of Ac.4.26 cents of Turlapadu village belonging to the 2nd respondent-Sri Chennakesavaswamy Devasthanam since 1988. In the year 2004 he made an application for being declared as a landless poor person and, therefore to the benefits as such under Section 82(2) of the Act. On 23-06-2005 the 1st respondent served a notice on the petitioner calling upon him to attend an enquiry on 30-06-2005 to substantiate his claim to being a landless poor person. Even before the determination of his claim, an auction notice was issued by the 2nd respondent on 04-06-2005 proposing auction of the temple lands.

The proposal for auction of the temple lands cannot be interdicted. The petitioner would have a grievance only if he is dispossessed even before determination of his claim for being a landless poor person.

In the aforesaid circumstances and on the above analysis the writ petition is disposed of directing the 1st respondent to consider and determine the petitioner's claim for the benefits of a landless poor person under Section 82 of the Act, expeditiously and in any event within a period of three (3) weeks from the date of receipt of a copy of this Order. While the auction process may go on, the respondents are directed not to take steps to dispossess the petitioner until the determination of the petitioner's claim to being a landless poor person and depending on the outcome of such determination. No order as to costs.

GODA RAGHURAM,J

29TH JUNE 2005

Note:

Issue CC in two days.

(B/O)

*TSNR

To

1 The Assistant Commissioner, Department of Endowments, Guntur, Guntur district.
2 The Manager, Sri Chennakesava Swamy Devasthanam,
Turlapadu Village, Edlapadu Mandal, Guntur district.

3. Two CCS to G.P for Endowments, High Court Buildings, Hyderabad(OUT)

4. Two C.D.Copies.